

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
ARTHUR GRACE,

Plaintiff,

- against -

MARSHALL FINE, SHOEFACE PRO-
DUCTIONS, INC., and THE WEINSTEIN
COMPANY,

Defendants.
----- -x

17 Civ. ____ ()

JURY DEMANDED

COMPLAINT FOR WILFUL COPYRIGHT INFRINGEMENT

This is an action for wilful copyright infringement involving the unauthorized and unlawful international exploitation by the defendants' documentary motion picture entitled "Robert Klein Still Can't Stop His Leg" ("the Infringing Movie") of classic photographs of Robert Klein created and copyrighted by plaintiff Arthur Grace, an award-winning internationally-acclaimed professional photojournalist.

THE PARTIES

1. Plaintiff Arthur Grace ("Grace") is a resident of California and a professional photographer and journalist for more than four decades. His photographs have appeared in leading publications worldwide, including on the covers of Life, Time, Newsweek, The New York Times Magazine, Paris Match and Stern. Further, his photographs are in the permanent collections of numerous museums, including the J. Paul Getty Museum, the National Portrait Gallery, the High Museum of Art, the International Center of Photography, the Minneapolis Institute of Art and the National Museum of American History. Further, Mr. Grace has published five critically-

acclaimed photographic books: “Choose Me: Portraits of a Presidential Race,” “Comedians,” “State Fair,” “America 101,” and “Robin Williams: A Singular Portrait, 1986-2002.” This case involves the defendants’ infringements of two photos that appeared in Grace’s book “Comedians.”

2. Upon information and belief, defendant Marshall Fine (“Fine”) is a resident of the City and State of New York and the person primarily responsible for the creation of the Infringing Movie.

3. Upon information and belief, defendant Shoeface Productions, Inc. is a corporation that has its principal place of business in the City and State of New York. Upon information and belief, it is the business entity through which Fine arranged for the display and distribution of the Infringing Movie.

4. Upon information and belief, defendant The Weinstein Company is a corporation that has its principal place of business in the City and State of New York. Upon information and belief, it served as Co-Producer and distributor of the Infringing Movie.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this case pursuant to 28 U.S.C. §1338. This is an action for copyright infringement under the federal Copyright Act. Venue in this district is proper pursuant to 28 U.S.C. §§1391(b) and 1400.

UNDERLYING FACTS

6. Grace’s book “Comedians” contained photographs of the comedian Robert Klein that were created by Grace. In 1991 the United States Copyright Office duly issued a Certificate of Copyright Registration -- No. TX0003180303 -- establishing the registered copyright status of the contents of the book. The book contains several photographs of Robert Klein.

7. At a minimum, in 2016 defendants displayed the Infringing Movie, which contains two of those photos, at SXSW and the Tribeca Film Festival and in 2017 defendants displayed the Infringing Movie on the Starz cable television network. On information and belief, defendants

have not ceased the display and distribution of the Infringing Movie even after being apprised that it contains infringements of those two photos. At no time was Grace asked for permission for the inclusion of those photos in the Infringing Movie and at no time did he grant any such permission.

CAUSE OF ACTION FOR WILFUL COPYRIGHT INFRINGEMENT

8. Plaintiff incorporates here the contents of Paragraphs 1 through 7 above.

9. The unauthorized copying, display, distribution and other exploitation of the Infringing Movie by defendants constitute wilful infringements of the registered copyright in Grace's photos contained therein.

WHEREFORE, plaintiff demands judgment a) awarding to him defendants' profits attributable to the infringements, plaintiff's damages, and/or statutory damages, pursuant to 17 U.S.C. §504; b) awarding to plaintiff his costs and attorneys' fees, pursuant to 17 U.S.C. §505; c) awarding to plaintiff punitive damages; and d) awarding such other relief as the Court deems just.

Dated: September 14, 2017

NORWICK & SCHAD

By: 

Kenneth P. Norwick (KN 4622)

110 East 59th Street
New York, New York 10022
(212) 751-4440
Attorneys for Plaintiff